

September 23, 2003

The Honorable Allan W. Klein
Administrative Law Judge
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

RE: **Environmental Quality Board's Proposed Permanent Rules
Governing Environmental Review of Electric Power Generating
Plants and High Voltage Transmission Lines in Proceedings Before
the Public Utilities Commission, parts 4410.7000 to 4410.7500
OAH Docket No. 6-2901-15394-1**

Dear Judge Klein:

Attached are the comments of the Department of Commerce in the above referenced matter.

If you have any questions, please call me at 651-297-2103. Thank you for the opportunity to comment.

Sincerely,

SUSAN MEDHAUG
Policy Analyst

SM/ja
Attachment



COMMENTS OF THE MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. 6-2901-15394-1

The Minnesota Department of Commerce provides the following comments which are based on our experience in providing analysis to the Minnesota Public Utilities Commission (Commission) in Certificate of Need proceedings.

Overall, we underscore that the preparation and completion of an Environmental Report is a sub-process within the Commission's Certificate of Need proceeding. Therefore, the Commission's statutory authority, and constraints, must be primary guides as the final version of these rules is being determined.

Specifically, we note four important points:

- First, the rules must not preclude the development of a complete and balanced Certificate of Need record. That is, the final version of rules must reflect that the Certificate of Need record must include facts addressing cost, efficiency, service life, availability, expected losses, etc for each project alternative for which facts addressing environmental effects are included.
- Second, the rules should promote the need for regulatory efficiency, particularly within the Commission's statutory timelines. That is, the final version of rules must provide for a process that does not make it impossible for the Commission to meet its obligation to make its need decision within the six-month statutory deadline.
- Third, in order for these new rules to work, it is evident that the Commission and the Environmental Quality Board (EQB) must operate on a common understanding and agreement of the project alternatives to be considered in the proceeding, as well as what may constitute a reasonable cause for delay of the six-month decision deadline. This need for coordination arises from the unusual circumstance where the decision-maker (the Commission) does not have complete control over the scope of issues to be examined in its own proceeding.

- Fourth, EQB staff's August 25th version of the proposed rules reflect months of hard work and compromise. The Department of Commerce would not support any changes to these draft rules that would result in the Environmental Report sub-process compromising the Commission's ability to exert its statutory authority or to comply with its statutory requirements.

/ja